IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**And**
**THE HON'BLE MR JUSTICE P.S.NARAYANA**

**WRIT PETITION NO : 1573 of 2003**

Between:

N.Srinivasan S/o.N.V.Ramarao
Bhadrachalam North Division Khammam circle (under orders of Dismissal)
Khammam Dist R/o.Kachiguda,Hyderabad.

**..... PETITIONER**

AND

1 Conservator of Forests
Khammam Circle Khammam Dist.
2 The Principal Chief Conservator of Forests Govt.of A.P
Hyderabad.
3 Divisional Forest Officer Badrachalam North
Badrachalam Khammam Dist.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari or any other writ quashing the order of the A.P Administrative Tribunal in O.A.No.2720/2001 dated 14-6-2001 and consequently directing the Respondent to treat the petitioner as if he was in service till the date of his superannuation and allow him all the service, retiral and consequential benefits including seniority, monetary benefit etc.

**Counsel for the Petitioner: MISS.HEMA BHOSKE**

**Counsel for the Respondents: GP FOR SERVICES I**

**The Court made the following:**

-

-

-

-

**ORDER:** (Per the Hon'ble Sri Justice G.Bikshapathy)

-

This Writ Petition is filed assailing the order dated 14.06.2001 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal') in O.A.No.2720/2001.

2. The petitioner was working as a Deputy Range Officer in Arunachalapuram Sector of Venkatapuram Range. While so, he was issued a charge sheet alleging that he misappropriated the Government funds to a tune of Rs.50,420/-. It was also alleged that he did not pay the amount to the V.S.S., members of Murmur Colony and Bommanapally for the works carried out by them in Venkatapuram Range to a tune of Rs.13,000/-. In the enquiry, the petitioner was found guilty of the charges and finally he was dismissed from the service. Aggrieved by the same, he filed an appeal before the appellate authority, but the appellate authority also dismissed the appeal confirming the dismissal order. Therefore, he filed O.A.No.2720 of 2001 before the Tribunal. Several grounds were raised before the Tribunal including the dismissal of the appeal, contrary to the provisions of Classification, Control and Appeal Rules (for short "C.C.A. Rules"). However, the Tribunal held that there was no procedural error and accordingly dismissed the O.A., by order dated 14.06.2001, against which, the present writ petition is filed.

3. The learned counsel for the petitioner, Ms.Hema Bhoske, raised number of contentions attacking the order of the dismissal and also the order of the Tribunal. One such principal contention raised in this

regard is that challenging the dismissal order, the petitioner filed an appeal and in the appeal he raised as many as 20 grounds, which go to the root of the matter. But, the appellate authority did not even referred to those grounds and mechanically dismissed the appeal as devoid of merits. Thus, she submits that the consideration of the appeal is only arbitrary and contrary to Rule 37 of the C.C.A.Rules.

4. We have heard the learned Government Pleader for Services-I appearing for the respondents in this regard and perused the order of the appellate authority.

5. We find that the order of the appellate authority is a cryptic order without containing any reasons thereof. Even though the petitioner filed the appeal with number of grounds, none of the grounds were even referred to in the order. This is quite contrary to the procedure laid down under Rule 37 of C.C.A. Rules, which is extracted below:-

> "**Rule 37. Consideration of appeal**:- (1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of Rule 8 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.
>
> (2) In the case of an appeal against an order imposing any of the penalties specified in Rule 9 or Rule 10 or enhancing any penalty imposed under the said rules, the appellate authority shall consider:-
>
> (a) whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in failure of justice;
>
> (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and
>
> (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe and pass orders :
>
> (i) confirming, enhancing, reducing or setting aside the penalty; or
>
> (ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case :
>
> Provided that –

(i) the Commission shall be consulted in all cases where such consultation is necessary;

(ii) if the enhanced penalty which the appellate authority proposed to impose is one of the penalties specified in [clauses (vi) to (x)] of Rule 9 and an inquiry under Rule 20 has not already been held in the case, the appellate authority shall, subject to the provisions of Rule 25, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 20 and, thereafter, on consideration of the proceedings of such inquiry, make such orders as it may deem fit.

(iii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in [clause (vi) to (x)] of Rule 9 and an inquiry under Rule 20 has already been held in the case, the appellate authority shall make such orders as it may deem fit, [after the appellant has been given a reasonable opportunity of making a representation];

(iv) subject to the provisions of Rule 25, the appellate authority shall –

(a) where the enhanced penalty which the appellate authority proposes to impose, is the one specified in clause (iv) of Rule 9 and falls within the scope of the provisions contained in sub-rule (2) of Rule 22; and

(b) where an inquiry in the manner laid down in Rule 20 has not already been held in the case;

itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 20 and thereafter on a consideration of the proceedings of such inquiry, pass such orders as it may deem fit; and

(v) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance with the provisions of Rule 22, of making a representation against such enhanced penalty.

(3) In an appeal against any other order specified in Rule 33 the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable."

6. Under these circumstances, we find that the appeal has not been considered in accordance with the Rules by the appellate authority and therefore it requires re-consideration in the hands of the appellate authority.

7. Accordingly, the writ petition is allowed and the order of the Tribunal is set aside and the matter is remitted back to the appellate authority for fresh consideration. The appellate authority shall issue notice to the petitioner and pass appropriate orders. It is left open to the petitioner to raise any additional grounds, if so chooses. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No order as to costs.

_____

G.BIKSHAPATHY, J

21st February, 2005

_____

P.S.NARAYANA, J

VGB/KM

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Monday, the Twenty First day of February, two thousand and five.

REGISTRAR

To

1 The Conservator of Forests,
Khammam Circle, Khammam Dist.
2 The Principal Chief Conservator of Forests, Govt. of A.P.,
Hyderabad.
3 The Divisional Forest Officer, Badrachalam North,
Badrachalam, Khammam Dist.

4 2CCs to the G.P. for Services-I, High Court Buildings, Hyderabad (OUT)

5 2CD copies.